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REPORT

Coordinating Committee on School Insurance

August 1973

ITEM 187

PROVINCE OF ALBERTA

MEMORANDUM

OUR FILE NO.:

YOUR FILE NO.:

FROM: L. D. Hyndman
Minister of Education

TO: All Members of the Committee
Attention: R. D. Karoles, Chairman

DATE: December 11, 1972

Re: Coordinating Committee on School Insurance

I have the pleasure to establish the above Committee assigned with the following responsibilities:

1. To examine and assess various possible relationships between the Department of Education and local school authorities in respect of insurance matters.

2. To examine and assess whether the provisions of The School Act, The School Buildings Act, and the regulations made thereunder, respecting insurance matters should be amended.

3. To determine whether a Provincial educational finance plan, such as the School Foundation Program Fund, should be used to participate in any loss of school property and, if so, to identify and assess the alternatives by which such participation might be administered having regard to such indicia as the current and future need for the property, depreciation and other factors affecting valuation, requirements of building codes, municipal ordinances and other legislation governing design, use and occupancy of controlled use real property.

4. The adequacy and type of coverage available from the insurance industry including but not limited to the following classes of general insurance:

   a) physical loss policies available for existing and proposed property, including rental property;

   b) comprehensive general liability;

   c) loss of earnings and extra expense coverage;

   d) motor vehicle insurance;

   e) student accident insurance;

   f) insurance respecting bonds, boiler and machinery, crime and vandalism, valuable papers and property;

   g) marine and aircraft insurance; and possible alternative arrangements which might be made among the above items, e.g., excess or umbrella coverage.

5. To examine and assess all existing insurance portfolios of local school authorities from the point of view of cost, coverage and administration.

6. To report on the apparent incidence of loss and the amount recovered according to type and frequency.

7. To consult, solicit and receive briefs from such organizations and individuals as may be concerned for these matters, except where additional resources are required the Committee shall obtain prior approval from the Minister of Education.

8. To make recommendations respecting all of the above items and report from time to time to the Deputy Minister of the Department of Education; a final report shall be prepared for the Minister of Education at the earliest possible date commensurate with the Committee's program of work.

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FILE No. 2-M

GOVERNMENT OF THE PROVINCE OF ALBERTA

DEPARTMENT OF THE ATTORNEY GENERAL

9919 - 105 Street
Edmonton, Alberta
T5K 2E8
August 28, 1973

The Honourable Lou Hyndman
Minister of Education
Government of Alberta
Room 323, Legislative Building
Edmonton, Alberta

Sir:

I, the undersigned, appointed as Chairman, have the honour to submit on behalf of the majority of the members of the Coordinating Committee on School Insurance, as identified by their signatures, their findings, conclusions and recommendations, as set forth in the report attached hereto.

Ron Karoles

R.D. Karoles

August 28, 1973
(dated)

REPORT OF THE COORDINATING COMMITTEE ON SCHOOL INSURANCE

INTRODUCTION:

The terms of reference of the Coordinating Committee, established by memorandum by The Honourable Lou Hyndman dated December 11, 1972, comprise three essential concerns, namely, the general status of school authorities vis à vis the Province, the needs of both levels of government respecting school insurance, possible policy strategies which might be considered by school authorities and the Government of Alberta in response to those needs.

STATUS: Powers and Functions of Local School Authorities in Alberta

It is within the terms of their impact upon the concept of responsible, local self-government that alternate proposals respecting the administration of a school insurance program must be evaluated. Such policy judgment requires that the state of local autonomy be determined and defined.

Of the two current forms of local school administration, the "board system" bears little of the substantive powers granted its ancestor by Ordinances 29 and 30 under The North-West Territories Act, 1886. With few exceptions no school board today is empowered to impose and levy taxes. In the absence of fiscal capacity and responsibility, some authorities successfully argued for the establishment of the "school committee system" -- which municipalities were given the option to adopt following a period of experimentation in the early 1950's -- on the basis that the relationship between council and its school committee would facilitate closer fiscal and financial coordination in matters of education, greater integration of policy and resources, reduce the friction between school boards and municipal government which characterized a period wherein each sought to define the primacy of its respective powers through a multitude of judicial proceedings. Following conception of the county system coincident amendments to The County Act and The School Act rendered virtually indistinguishable the authority possessed by each form of school authority. Other legislative changes, permitting the creation of centralized schools and adoption of regional school government, to some extent eliminated problems of territorial jurisdiction and responsibility overlap. Nevertheless, some critics theorize, the board system prevails in Alberta because the committee system mutes the electoral process in that school representatives are chosen subsequent to the election of council.

Accordingly, in the exercise of its constitutional responsibility for education the Province maintains a network of local government to which is delegated much of the work of providing and operating schools, hiring administrators, teachers and other employees, educational programming, student supervision and transport. Within this hierarchical system of delegated functions ultimate authority and responsibility is retained in the legislature.

A local school authority conducts its daily business by virtue of its corporate status which provides it a legal personality separate from its trustees.

School corporations exercise only those powers the statutes or regulations governing their affairs require or permit; business can be conducted only by observing statutory formalities of assembly and resolution. To bind itself by contract the school corporation may execute only those agreements authorized by statute. For example, its corporate personality alone does not permit the school authority to deal with its property in the same capacity as other corporations. The School Act is silent on the power of the board to lease its property for profit. But it has been held the board is prohibited from so doing. Legal title to property may reside in the school corporation but it is held in trust. The School Act and The School Buildings Act implicitly place in the public, or in the Province, equitable interest in school land and buildings. This conclusion is supported by express provisions empowering the Province to plan and regulate the construction, reconstruction and relocation, use, management and financing of school property.

Indeed, the paradoxical status of school corporations is emphasized in the funding of school operations. Thereby the Province operationally relates education costs to the value of service provided. The Task Force on Provincial-Municipal Fiscal Arrangements examined in detail the operation of The School Foundation Program Fund, the main revenue source of school corporations. The Task Force's exhaustive review bears no need for repetition here particularly as many of its recommendations and principles for future local program funding have since been adopted as Government policy. It is important only to observe that school program funding is yet another framework within which the status of the school corporation, as it relates to financing, can be defined.

Preceding conclusion of the Task Force's work, the School Foundation Program Fund was comprised entirely of property tax revenue and provincial appropriation. The Fund's operational criteria, which established a pay-out formula consisting of cost calculations respecting instruction, transportation, administration and debt servicing, enabled the Province to coordinate the totality of the revenue components of the Fund with the totality of educational expenditure. Exercise of local autonomy and responsibility, together with the conditional nature of Fund grants, achieved some success in efforts to control educational costs. Still the Task Force received representation from many municipalities that the spending power of school corporations be rigidly controlled. Perhaps as an expression of confidence in the responsibility of local school government, the Province increased the participation ratio between the appropriation to the Fund and property taxes thereby inviting local government to reflect the decreased load on the latter component. Further, in the face of falling pupil enrollment the Province substituted a per-pupil base in the pay-out criteria in order to render the Fund more responsive to cost-of-service.

It is important to note that the Province administers the Fund through the Department of Education and it serves all public and separate school authorities, the latter having opted unanimously to participate in the Fund. It has been estimated the Fund services the school operational costs at an approximate average rate of 86%. Remaining costs are financed by supplementary requisition, miscellaneous grants, tuition fees, etc.

Prior to 1959, school corporations financed their capital projects through what was called The School Lands Trust Fund. This fund was used to provide 25% of the monies required. Provincial grants made up an additional 25% and the remaining 50% consisted of debentures sold on the international bond market. During that time it was the function of the Department of Education to prepare such debentures. In 1959 the Fund was absorbed into the General Revenue Fund. However, approximately $19,000,000 of principal is still outstanding under the old system. Today, the Province participates directly in school debt finance. First, the Province assists school corporations in the management of their financial program through regulatory

powers given the Local Authorities Board whose task generally is to review local debt capacity.

Secondly, under The Alberta Municipal Financing Corporation Act school authorities holding one class "B" share are authorized to sell debentures to the corporation. As at December 31, 1972, the amount of debenture debt outstanding amounted to:

Principal	$337,756,316.00
Interest	$226,833,910.00
Total Outstanding:	$564,590,226.00

Preparation of debentures and processing all applications for sale to A.M.F. Corporation, again, are functions performed by the Department of Education. The relationship between the Province and school corporation finance in both the Corporation and the School Foundation Program Fund should be noted.

It is important, too, to note that it is impossible to isolate the exact revenue source devoted to the payment of insurance premiums. School budgets are prepared and expenditures are reported by bulk classification which, with the exception of certain premium cost, exclude analysis of insurance program administration cost. For example, the cost of non-owned vehicle insurance is buried in the rental. In the absence of such data it is impossible to compare the relative cost advantages of alternate insurance strategies except only on the basis of premiums paid. In any event, it is clear the Province's investment in school insurance cost is large.

In addition to its supervision of school business management and its participation in school finance, the Province imposes many duties upon school corporations. The Minister of Education has express authority to regulate certain classes of school insurance; generally, the current relationship between the Province and school corporations is more difficult to evaluate in those areas of insurance which remain unregulated. Section 12 of The School Act authorizes the Minister to make regulations "... governing the insurance of a board, its teachers and other employees ....". The Act makes certain kinds of insurance mandatory:

> "65(3) A board shall subject to this Act and the regulations
> (a) keep in force a policy of insurance for the purpose of indemnifying
> (i) the board and its employees in respect of claims for damages for death or personal injury, and
> (ii) for damage to school buildings and equipment,
> in an amount prescribed by the Minister ....".

The extent to which the Minister's authority has been exercised is described by the following summary of Regulation 258/70:

> 1. Third Party Liability of a Board and Employees
> (a) with the following minimum limits
> (i) for Boards with 2 teachers
> (a) $10,000.00 for injury to one person
> (b) $20,000.00 for injury to two or more persons
> (c) $2,000.00 for property damage
> (ii) for Boards with 2 or more teachers
> (a) $50,000.00 for injury to one person
> (b) $100,000.00 for injury to two or more persons
> (c) $10,000.00 for property damage

(b) Exclusion (at the option of the Board)
(i) workmen's compensation
(ii) motor vehicles, watercraft, aircraft
(iii) bodily injury, sickness, disease, death caused intentionally by or "at the direction of ..." the Board.

2. Property -- building and equipment
(a) minimum coverage of "current actual value"
(b) Exclusions (at the option of the Board)
(i) motor vehicles, watercraft, aircraft
(ii) use of explosives
(iii) "moving ... raising or demolition of any building"
(iv) "property owned or occupied by ... the insured"
(v) "property ... leased by the insurer"
(vi) where property otherwise insured
(vii) personal property damaged during repairs
(viii) "goods ... handled or distributed by ..." the board.

Clearly, the regulations are insufficient. The "amounts prescribed" for liability coverage and property loss are grossly undervalued, even as minimal requirements, particularly in the light of current damage awards. The term "current actual value", respecting minimum property coverage, bears no relation to insurance terminology which usually attempts to classify indemnification either on the basis of new replacement cost of like kind and quality or depreciated replacement cost howsoever such depreciation may be caused. The regulations offer no guidance as to the perils to be insured, use of deductibles, co-insurance clauses and other techniques of participatory risk. The regulations offer little guidance as to what is required of school corporations respecting the liability of an employee, workmen's compensation, boiler and machinery insurance, off-hour disability insurance, sickness or accident, fidelity bonds, crime covers, vandalism, loss, collision and liability coverage in the operation of owned, non-owned and contract vehicles.

The Committee acknowledges the difficulties of regulating insurance at all. While one would expect that the regulations would encourage school corporations to insure (in companies licenced to operate in Alberta) at the minimum it would appear the portfolios examined bear somewhat more prudence respecting coverage than the regulations prescribe. To up-date the regulations governing minimum coverage would require considerable research into insurable and uninsurable risk probabilities so as to avoid leaving any particular school overprotected or underprotected. One option is implicitly provided by the language of section 65(3). It indicates that the Minister may supervise the insurance program of each school. While such authority has never been exercised -- indeed, such responsibility may be administratively unfeasible -- does this mean the Province acquiesces to the amount and type of insurance coverage actually carried? If so, what of the Province's liability where a school corporation possesses inadequate coverage?

The desired policy of the Province respecting school insurance must accommodate the concept of responsible government, or local autonomy, difficult as that concept may be as to definition and parameter. Whatever its meaning, the concept of local autonomy is based on the fact that elected trustees are men and women who harbour a deep sense of social responsibility. Such personal commitment must be honoured, encouraged and preserved. It should be noted, too, that in the exercise of their responsibility many trustees initiated the creation of the Coordinating Committee and the majority of their submissions expressed need for drastic change.

Much debate has concerned the efficacy of establishing a unified system of insurance by legislation with sufficient flexibility to accommodate interests peculiar to each locality. The Committee agrees that whatever Government policy respecting school insurance is favoured it must assimilate and improve upon current insurance practices.

LIABILITY OF SCHOOL BOARDS -- BASIS OF INSURANCE NEEDS

School corporations exist only in contemplation of the law. Therefore, they must conduct business through their agents and employees. School corporations experience many administrative problems which when translated into legal issues identify certain insurance needs. As a mechanism designed to deal with human affairs, insurance is a complex subject requiring foresight and sensitivity to legal problems. In view of the exhaustive studies by Enns and Bargen the Committee felt it unnecessary here to compile a treatise on the law respecting school corporations and pupils. As the current state of school insurance coverage will be evaluated in another report the Committee need not repeat such research. Rather, it is more cogent to catalogue the kinds of circumstances different school insurance techniques might be designed to meet, recognizing that public interest will dictate the final selection of a Provincial policy respecting school insurance.

Public interest requires that school buildings, equipment and supplies be protected from total or partial loss. Residents must be assured that their local school authority can continue to meet its obligation to educate their children in reasonably modern, safe accommodation to which some students must be transported. Students must not be denied, by reason of accident or injury, neither their right to an education nor subsequently their right to earn a livelihood. Teachers must be protected against loss of income through sickness, accident or financial burden from legal liability. How well school corporations have reacted and can react to these needs is dependent upon their administrative proficiency, their capacity to organize a comprehensive insurance program either alone or in consort with other authorities.

Current insurance practices of Alberta's 200 operative and non-operative school corporations, some with no insurance whatsoever, present an image of disjunction and fragmentation composed of differences in coverage, cost, and methods of insurance placement. The difficulties of legislating insurance coverage have been discussed earlier. The Province must determine the value of regulating certain classes of insurance. One alternative, which might be used in conjunction with legislation, is to develop communication with school corporations in the operation of a comprehensive insurance program. Some of the aspects of the program should include:

1. Determination of the degree to which certain losses should be insured, if at all.
2. Provincial-municipal projects, i.e., road construction projects, fire hydrants, etc., should be coordinated with a view toward maintaining a loss prevention program. Recent announcements concerning the introduction of a Provincial building code undoubtedly will have impact upon school insurance matters. For example, in the short run new schools may enjoy reduced rates if built according to established high standards of construction and safety. However, with continued improvements in construction and building standards future losses could leave school corporations with inadequate replacement coverage due, for example, to high minimum building code standards. Policy directives might facilitate integration of provincial-local inspection services, e.g., fire, elevator, boiler and general building inspectors, who should be encouraged to exchange reports or otherwise integrate their evaluations and advice to local authorities.
3. Research should be encouraged to evaluate the nature and probable value of insurable risks prior to the execution or renewal of insurance contracts. This will facilitate consideration of the implementation and amount of deductibles.
4. The technical details of language used in contracts of insurance should be examined carefully to avoid dysfunction between coverage, exclusion clauses and insurance needs.
5. Possible budgetary impact of co-insurance clauses must be examined.

6. All property values must be up-dated regularly or consideration must be given to the use of stated-value clauses.
7. Policies must be examined against fluctuations of risk. A blanket policy as opposed to specified coverage might be in order.
8. Property policies wherever possible should provide for the replacement of like property or new replacement cost. Indemnity should not be restricted to replacement on the same site.
9. Motor vehicle coverage, including loss, passenger hazard and public liability might be reviewed by both levels of government. Effort should be made to standardize coverage with limits as high as possible on certain classes of risk. With respect to non-owned vehicles, school corporations should be entitled to a certified copy of the insurance policy.
10. Terms of insurance carried by independent contractors and repairmen should be made available to the school corporation.
11. Particularly with respect to property insurance, school corporations should be encouraged to require insurance contracts drawn specially for their needs. Standard forms should be avoided or close examination made of endorsement clauses to ensure they reflect all probable risks. Blanket insurance can be drawn to reduce the emphasis on exclusion clauses and cover the use and occupation of all property under such headings as buildings, equipment, unlicenced mobile equipment, business interruption or extra expense, valuable documents and libraries and vandalism.
12. Comprehensive liability policies should include liability to third parties for bodily injury and damage to property. Again, such policies should be designed specifically for school operations. The policy should be written to include teacher or employee negligence even where he may be named individually in legal proceedings, coverage for false arrest, assault and battery performed at the instruction of the employer, contractual liability and "good samaritan" malpractice. The policy should provide for indemnity of legal costs and fees.
13. Generally, property insurance should relate to loss or damage by "occurrence" rather than "cause". Special provision should be made for insurance where the school corporation is a tenant. The lease should require the lessor, for example, to carry certain classes of insurance and it should contain release provisions in favour of the school corporation for certain kinds of loss.
14. All school corporations should be brought within the provisions of The Workmen's Compensation Act is such manner as to provide compensation for all employees and trustees.
15. Where appropriate, the Province should be a named insured.

Some of the more fundamental problems affecting school insurance which arise outside the insurance contract, can be enumerated as follows:

a. Each school corporation currently is responsible for its own insurance program whereas each represents in theory only 1/200 of the number of school insurance problem areas of the Province.

b. Generally, portfolio management is left to a single agent who may be unaware of daily changes in risk; he may be unable to anticipate loss.

c. Successful negotiations of loss settlement depend upon the personality, knowledge and experience of the school corporation's agent. On some occasions the Province is neither advised nor consulted.

d. Within the range of school corporations, placement of insurance bears little evidence of development of economies of scale with consequent impact on rates.

e. Few agents have direct access to the underwriting market thereby increasing costs of placing insurance which must be passed on to the consumer, i.e., the school corporation.

f. In many cases, the broker cannot assume the responsibility for agents who have written an insurance contract in error, with insufficient coverage or cross-fertilized coverage with conflicting exemptions.

g. The agent is faced with a "shrinking market" wherein insurers find school insurance a less and less popular investment. Insurers weigh the value of school business on an international scale lumping the totality of their experience in high loss ratio jurisdictions together with those whose prevention practices are excellent. The insurer will determine a rate of school insurance premium commensurate with its profits from other forms of insurance.

h. Some school corporations report their insurance costs have risen at a rate which appears unrelated to their loss experience. The Committee can only conclude that increases in such cases are due to inflation and other economic factors affecting the insurance industry generally.

i. If "school insurance" can be regarded as including such forms as student accident insurance, then neither the Province nor school corporations can be said to be attending upon a comprehensive insurance program.

j. Inasmuch as school insurance bears directly upon the provision of educational services it is a social program with province-wide implications being conducted, however, at the local level.

These problems present a framework for evaluating policy alternatives for consideration by the Province and the design of an appropriate insurance strategy.

POLICY ALTERNATIVES FOR GOVERNMENT

As stated earlier, whatever occurs at the level of school corporations concerns the Province administratively, financially and politically. The need for new insurance strategies has been observed by and documented in the submissions to the Coordinating Committee. Because of the constitutional responsibility of the Province and the need to preserve local autonomy, the Government of Alberta must take the initiative to consider and determine which of several policy alternatives can best bring about a comprehensive insurance strategy. Ideally, the appropriate policy will be developed on the basis of a partnership between the Province and local school authorities. To that end, the Committee has directed its attention to three policy alternatives for consideration by the Coordinating Committee:

(A) Maintain the status quo

The Coordinating Committee was established in response to concerns expressed by school boards and interested members of the public. The degree of public participation suggests aspirations in some communities anticipate concrete results from the work of the Coordinating Committee. On the other hand, the realm of public experience is such that proposals for a change of government policy risks the attraction of comment exemplifying suspicion and concern albeit however unjustified such comments may be.

Specific criticism might be forthcoming from those who expect the introduction of drastic program change and believe themselves to be affected. Some school corporations have expressed concern for the preservation of local autonomy. This concern was repeated at a recent national conference of school trustees. Many private citizens fear government take-over of the insurance industry. Insurance companies themselves share this fear. Witness the recent action of six insurers in the Province of British Columbia, the last of which, the Allstate Insurance Company of Canada, announced it would cease writing automobile insurance in that Province as of June 1, 1973. Insurers possess some measure of retaliatory power which conceivable could affect Alberta. For example, insurers might adopt a reactionary position designed to reduce their participation in the marketing of provincial bonds where their traditional involvement has been substantive. More readily, however, insurance agents might defend their vested interest against any shift in the pattern of marketing insurance.

Depending upon the level of criticism from the private sector, the Government of Alberta might feel itself required to adopt some measure of retrenchment. Alternatively, by turning its attention only to certain specific, manifest

needs for legislative amendment the Province, in the adoption of this policy alternative, might strike a balance between those who expect change and those who fear change. Efforts towards statutory amendment might include:

1. Minimum relief could be achieved by up-dating the provisions of Regulation 258/70 to provide increased limits of loss and liability as specified therein. Such a measure might be of short term minimal benefit. Expressed as minimal limits, and terms or conditions, a tendency could develop whereby school corporations insure only up to the minimum provided. Without considerable research into the needs of certain school corporations minimal amounts may require them to over-insure.
2. Expand upon the provisions of section 65(3) of The School Act to empower the Province with clear responsibility for the review of the insurance portfolio of each school board. This measure would require the establishment of a vast administrative arm of government with expertise in insurance placement, draftsmanship and property appraising directed toward the acquisition of substantive knowledge of the interests and administrative problems of each school corporation. This measure would not relieve the criticism respecting the need to preserve local autonomy.
3. Section 65(3) of The School Act might remain essentially the same with a minor amendment to its concluding clause wherein it speaks of a power in the Minister to prescribe the "amount" of property and liability insurance to be carried. The extent of the Minister's current authority is inconclusive. The amount of insurance does not necessarily bear any relationship to the limit and extent of coverage or the classes of insurance to be carried.
4. Strike from The School Act any specific reference to the kind of insurance to be carried by school corporations leaving them free to exercise their responsibility without supervision of any nature or kind. Surely, this alternative could not be classed as an attempt to maintain the current situation. Indeed, it may be a step backward.

In addition to the disadvantages described above, this policy is subject to further possible criticism. The status quo leaves the Province open to attack for the apparent lack of attention to forms of school insurance other than property and liability insurance. The School Act and Regulation 258/70 make no reference to student accident insurance. Of the 423,333 students enrolled in Alberta's primary and secondary school system it is estimated there are approximately 150,000 covered by some form of student accident insurance. Parents, at least those who can afford the premium, are suaded, if not persuaded, by school authorities to take out some form of student accident policy. If a student is covered by the provincial medical and hospital plan, an accident policy covering injury during school hours or on school property covering the student will reduce the risk load upon the school corporation's liability policy.

Secondly, in that the current situation takes no cognizance of the economies of scale through which all forms of school insurance might be placed, the Province together with school corporations could be criticized for the inefficiencies of the system of insurance and the waste of public monies involved.

(B) Encourage the development of group insurance

To generalize, it is readily accepted that group insurance can improve insurance rates, standardize coverage and reduce administrative costs among participants. At the moment, there exists no central authority or acknowledged representative of all groups interested in school insurance. The formation of a centralized agency in order to be comprehensive would have to be the acknowledged representative of such groups as parents-students, counties, school boards, their employees, and the Province. The objective of the central agency would be to assess and serve the totality of school insurance needs in the Province and provide some economy of scale in the marketing of a policy or policies covering all interests. A centralized

agency would process, settle all losses and assume transfer of the administrative costs of insurance currently being borne individually by most school corporations together with their insurers. As a joint delegate of the Province and all school corporations, the central agency could be funded partly from monies currently distributed to and used by individual school corporations for the payment of insurance costs.

There exist two organizations in Alberta which have some capacity to represent school corporations. All school committees are members of The Alberta Association of Municipal Districts and Counties which was incorporated by private act, c.67, S.A., 1923 as amended by c.116, S.A., 1971. The Association is the owner of an insurance agent, which currently serves 39 school jurisdictions. All school corporations, namely, all school boards and committees, are members of The Alberta School Trustees' Association, incorporated by public statute, c.332, R.S.A., 1970. The Association is the successor to an association which was formed in 1907. A majority of its members are served by private insurance agents. The Continuing Committee received two proposals for the augmentation of each association. The Coordinating Committee is aware that the A.S.T.A. has been contemplating the creation of its own insurance agency. On the other hand, the A.A.M.D.&C. proposes that its board of directors be expanded to accommodate two school trustees whereby, it is hoped, some integration between the associations might be achieved. The A.S.T.A.'s hesitancy is prudent in that the creation of a second insurance agency could be self-defeating. Two counterpart insurance agencies would compete with each other at the level of the underwriting market and their existence would leave unresolved the need for centralized services.

This policy alternative is not without other serious disadvantages, some of which might be itemized as follows:

1. While as a matter of status school corporations are equal to one another and therefore must be entitled to an equal voice in a central agency of which each would be a member, they do not necessarily share the same risks. Nor with respect to administrative problems, level of sophistication of their knowledge of insurance matters, including their needs, is each school corporation equal to one another.
2. This policy alternative would not meet the argument of some authorities that certain insurance standards must be legislated.
3. The central agency concept would risk the development of a posture by the agent that it negotiate losses on behalf of its members with both the insurer and the Province particularly where a short-fall of insurance monies results from inadequate coverage. A central agency ultimately becomes captive to its responsibilities.
4. Public interest demands that the cost of educational programs be supervised by the Province. Such demand is part of the rationale for the maintenance of supremacy by the senior government. The single or centralized agency concept could tend to offend this rationale where, for example, a school corporation member insists upon the replacement of a building the use of which has become redundant. In a situation where such school building has been insured on the basis of replacement cost the Province conceivably could lose control of program costs in two ways.
5. The single agency concept would not necessarily improve access to the underwriting market beyond that currently enjoyed.
6. This policy alternative could effectively remove from the school insurance field many private agents. It is important to note, however, no such agencies are dependent entirely upon the business of school insurance for their total income.
7. Risk appraisal and other insurance expertise would have to be developed.
8. Without fundamental legislative amendment the single agency would have no direct control over school building standards or design.
9. In order to develop a comprehensive insurance program the single agency would require substantial resources from the Province in order to assume responsibility for other forms of insurance. In essence, then, the single agency would result in the Province indirectly becoming a self-insurer by a means that is questionable at best.

Finally, without considerable effort toward development of unity of interest the single agency concept would provide little improvement beyond the current situation. As a policy alternative it would require the Province to take some initiative to resolve the question of amalgamation between the existing associations or require the Province to select one of the associations over the other with which the Province is prepared to coalesce in the preservation of its interests and the exercise of its responsibility.

(C) Assumption of a positive role by the Province

This policy alternative could involve three insurance strategies or options, namely, take-over, self-insurance or a posture whereby in partnership with school corporations the Province would act as the manager of insurance matters on behalf of school corporations:

1. take-over

This option has been expressly ruled out by the Honourable Lou Hyndman, Minister of Education, in an address to a conference of school trustees on school insurance held in Edmonton, March 29, 1973. It is mentioned as a policy alternative here only for the purposes of adding perspective to other options. It would involve the creation of a provincially-owned insurance company to assume all responsibility for insurance policies held by school corporations and the assumption of other forms of school insurance. Some coordination would have to be made with other insurance programs conducted by the Province, e.g. Workmen's Compensation.

2. Self-insurance

This alternative can be looked upon as a variation of the concept of a provincially-owned insurance company or Crown corporation. "Self-insurance", an expression used in many submissions to the Coordinating Committee, must be distinguished from the concept of non-insurance. A non-insurance strategy is one in which no provision is made for the assessment of risk of property loss or liability. The obvious advantage to non-insurance lies in premium savings. It bears repeating that a few school corporations operate on the belief that as they own no property and employ no staff they are relieved of all insurance responsibility.

In one sense the Province now operates as an insurer in that it bears the responsibility for the funding of school operations, school construction programs, planning and management. A strategy of self-insurance would involve clarification of the Province's role through express policy. For example, the Province might establish a loss reserve as a component of the School Foundation Program Fund from which the payment of catastrophic losses might be made. This strategy would be consistent with the Province's umbrella responsibility for education. Again, the obvious advantage lies in the initial saving of premium. In addition, this strategy would reduce the administrative load upon school corporations and insurers. It may be regarded as an advantage that a self-insurance program would require the assumption of insurance expertise particularly in the determination and assessment of risk. To a certain extent such acquisition would amount merely to an assimilation of current limited expertise available to the Province such as that provided by the Alberta General Insurance Company.

However, in a true program of self-insurance the Province would bear all risks. The Province would be required to develop some means of calculating annual contributions toward a loss reserve or sinking fund. During its early years the fund may be inadequate to cover all risks and assume the economic burdens currently borne by insurers. In other words, initial contributions would be out of balance both with current total annual expenditures for school insurance and with the risks covered. Legislation would be required to coordinate a self-insurance program with

other government operations. In addition, regulations would have to be devised governing pay-out from the fund. Unless such rules were established the level of expenditures borne by the fund would remain indeterminant. Without pay-out guidelines a self-insurance program would be unable to exclude payment even of unforeseeable losses. Therefore, in order to forecast the amount of back-end load on the fund, a list of guidelines would have to be developed so extensive in nature as to appear more detailed than an insurance policy. From a technical point of view, the Province might be required to defend such pay-out guidelines in situations where drawings upon the fund have been unreasonably heavy in any given period. Such defence would require a strange form of legal expertise -- one in which there is possessed a considerable knowledge of insurance law but executes more concern for the possible judicial interpretations which might be given to the guidelines. Clearly, without the operation of guidelines there would exist a constant drain on the fund, on the one hand, while at the same time under the existence of guidelines the philosophy of a self-insurance program would be obviated. Restricted in its access to the fund by the existence of guidelines school corporations would be required to maintain some form of insurance to cover the top end of their risk.

A self-insurance program could be applied more reasonably to property, equipment and motor vehicle collision insurance. However, unless extended to liability and student accident insurance, a self-insurance program would amount to nothing more than a stop-gap measure.

3. The Province as School Insurance Manager -- a partnership arrangement with school corporations

Part of the basis for this policy option is to be found in the report of the Task Force on Provincial-Municipal Fiscal Arrangements. As mentioned earlier, in all its forms school insurance can be regarded as part of a social or human resource program conducted at the local level, which, if assumed by the Province, would clarify the responsibilities of local self-government and facilitate the management and control of program costs. Inasmuch as this option would not interfere with the status of school corporations and the nature of their interest in school property this policy option could be looked upon as a functional arrangement between the Province and school corporations not unlike a partnership. Within such a relationship the Province would be acting positively upon its concern for educational services and its responsibility for insurance matters in the public interest. In a sense, the current intergovernmental relationship is analagous to one in which the Province might be regarded as having an equitable interest in all subjects of school insurance. On the subject of local autonomy, it must be noted that many submissions received by the Coordinating Committee suggest few school corporations would view a positive role assumed by the Province to be an interference with their status. In many ways, the majority of opinion expressed by school corporations repeats their position taken before the Task Force.

Briefly, this policy option would avail to the Province, and school corporations, a variety of insurance techniques not excluding forms of blanket insurance or umbrella coverage designed to cover all aspects of possible subjects to be included within a comprehensive insurance program. Market and coverage strategies selected would not differ greatly from that which the Province has undertaken in the insurance of its own property and employees.

Acting merely as a manager of school insurance, the Province would not be required to expand upon current legislation. Indeed, this policy option would permit deletion of section 65(3) of The School Act and the repeal of The School Insurance Regulations.

The advantage of coordination between this policy option and current educational programming is obvious.

Other advantages of this alternative can be summarized as follows:

1. It is consistent with the Province's constitutional responsibility.
2. It would permit the Province to purchase student accident insurance for all students including native students and students enrolled in schools operated by the Department of National Defence. The Province could assume the relatively minor responsibility of processing claims upon such insurance thereby assuring equitable settlement and coordination with other kinds of insurance coverage, e.g., hospital and medical benefits.
3. This policy option would stimulate the insurance industry to innovate and apply its creative talent toward a new system of school insurance. Past efforts in this regard have been made only on a limited scale. Yet, for example, the Province's own insurance program requirements have been met with considerable success. The ability of the industry to meet this challenge will permit industry to develop and present to the public a healthy corporate posture.
4. Except to the extent it involves the management of deductibles by the Province, this policy option would manifestly assure the public and the industry that the Province has no interest in assuming the business of insurance.
5. The Province and the insurance industry would be able to control more effectively coverage on a loss-cost basis and more directly relate coverage to that which the underwriting market can bear.
6. The Province, together with school corporations, can more effectively organize and coordinate insurance settlements with other programs.
7. Through the operation of this policy alternative local agents would be able to reduce drastically their own errors and ommissionsinsurance coverage.

It should be noted this policy alternative will have its greatest impact upon the 30 to 40 of approximately 3000 local insurance agents licenced to do business in Alberta. The Sub-Committee recognizes that any reduction in their income is serious and it recommends the Province consider programs to relieve against such loss, particularly in the cases of rural agents, should the Province adopt this alternative. Such assistance might be by way of grant, perhaps to the Insurance Agents' Association of Alberta. The purpose of such a grant would be to assist in the cost of developing new skills and capacities for local agents. Otherwise, it would be insufficient for the Province to respond, in answer to concerns which might be expressed by local agents, that as of March, 1973, in a directive issued to the Treasury Branches of Alberta from the Department of Treasury, a substantive amount of insurance business has been returned to the private agent. Nor is it entirely satisfactory to argue that the advantages of this policy alternative, substantive as they may be, outweigh the limited impact upon so few people that their concerns might be ignored.

Without some measure of independent action by the Government of Alberta, the success of this policy alternative is almost totally dependent upon full participation by all school corporations. It might be anticipated that for reasons of their own certain school corporations might wish to be excluded despite all logic and argument in favour of their participation. The danger is that either the remainder jointly suffer poor economies of scale or, even with a high rate of participation, the participants bear substantively different risks thereby adding to the cost of the program. In either case insurers could expect a resonably detailed risk evaluation thereby drastically increasing administrative costs. Approximately 70% of the value of Alberta school property is held by the public and separate school boards of Calgary and Edmonton. Recalcitrance by any of these obviously will detrimentally affect this policy alternative. Ideally, then, some basis must be found on which the Province might honour local autonomy without leaving any subject of insurance uncovered, ensuring that the interest of the Province in all school matters is provided.

Earlier, reference was made to judicial recognition that public interest in school affairs properly co-exists in the operation of the two levels of government. In many ways the Province and school corporations act in a mutuality of interest as partners might act in an ordinary business enterprise. This analogy might be extended to provide the rationale for a comprehensive insurance program designed in such manner so as to provide an opportunity for each school corporation to continue all or part of its current portfolios or cancel its insurance policies altogether in favour of coverage provided on their behalf by the Province. The discretion to participate in the provincial program would reside completely in each school board or school committee. Developing the analogy of a partnership involves the observation that it is through the mechanism insurance that partners attempt to avail themselves of business protection and other advantages which accrue to the alternative of incorporation wherein limited liability is provided to shareholders. In partnerships, people associate with one another in the recognition that each possesses skills to the advantage of the enterprise as a whole and that the business of a partnership is jeopardized in the event of death of one or more partners or by the incurrence of liability which might be imposed on the assets each partner owns in the business. The practice of reciprocally insuring the life and liability of each partner protects the business and the investment of each partner from these eventualities. In theory, a partner could find his private and his business affairs so completely insured by coverage purchased by the other partner that he might conceivably cancel the insurance he carries on his own affairs, if he had some means of assuring that the premiums would continue to be paid by his partner or from some other source.

The application of this theoretical possibility to this policy alternative is obvious. The payment of premiums can be guaranteed by statute. The decision to cancel its current insurance program must be examined by each school corporation in the light of its responsibility to its ratepayers.

The option to acquiesce to a provincial plan must be exercised by the removal of current standards of coverage imposed upon school boards by regulation. The School Act Regulations might be amended to refrain from prescribing any amount of insurance or any class of insurance save special areas, e.g., workmen's compensation. One other item to which the regulations should be directed is the coordination of insurance settlements, on the one hand, with settlements available through insurance carried on behalf of all school corporations by the Province, and, on the other hand, with the operation of ongoing provincial programs.

The cost of a comprehensive insurance program has been researched independently from the work of the Coordinating Committee on School Insurance. It is important to note that current premiums on all forms of school insurance, excluding student accident insurance, are largely borne by funding from the Province in an approximate annual amount of $1.535 million. A comprehensive insurance program, purchased by the Province, has been estimated to run at an annual cost of $1.075 million with a resultant saving of approximately $700,000.00 in the event of full participation by all school corporations. Of course this saving does not include an annual premium for student accident insurance which has been estimated at $240,000.00 for all students in Alberta resulting in direct savings to individual families.

Finally, it may be appropriate to summarize the advantages that this policy alternative provides. These advantages include:

1. maximized coverage at minimal cost with improved program coordination;
2. protection of the interest of the Province (for example, financial commitment of the Province in school buildings), protection of the interest of school boards (for example, many boards carry no insurance, the remainder carry inadequate coverage) and protection interest of the interest of the public (student accident

insurance coverage can be included in the comprehensive program and the coverage could be designed for insurance of school facilities allowing maximum community use of such facilities);

3. the program would amount to a positive exercise of current statutory responsibility in the office of the Minister of Education without any increase in the number of Provincial employees or administrative structure beyond that which currently exists for the purpose of supervising the Province's internal insurance needs;

4. the program enlists the corporate responsibility of the private sector;

5. a comprehensive program creates and permits prudent management of the Province's financial, administrative and constitutional responsibilities;

6. the program removes premium cost to the parents for student accident coverage.

Perhaps one of the more significant advantages of the partnership concept lies in the fact that the successful implementation of a comprehensive insurance program would require substantive in-put from school corporations. Individually and collectively through their existing associations, The Alberta School Trustees Association and The Alberta Association of Municipal Districts and Counties, school corporations would report losses, provide general information and receive attention to their enquiries responsive to their special insurance needs. Such dialogue -- which would utilize points of contact within the Department of Education currently employed in non-insurance matters -- would engender consultation respecting the mutual responsibilities of the Province and school corporations for school insurance and program coordination through the development of an atmosphere of partnership in a real sense thereby relieving against any concern that the concept will affect local autonomy detrimentally.

Indeed, it is through the endorsement of the partnership concept that local autonomy will be enhanced in that the success of the comprehensive program will depend upon the degree of communication maintained.

REPORT OF THE COORDINATING COMMITTEE ON SCHOOL INSURANCE

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